

# **EXHIBIT 4**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DEVONE L. ALBERT, GREGORY J.  
ANDERSON, BENNIE BARNS, CLYDE E.  
BROWN, SCOTT CLEAVES, EDDIE ELLIS,  
HERBERT FRANKLIN, ROBERT C. GILL,  
JAMES GLAZIER, ROBERT D. HAGGARD,  
GREG HUDSON, AHMAD KABIR, JEAN R.  
JONES, LEROY P. METOYER, JR., HARRY  
WILLIAM MOORE, TIMOTHY R.  
MOULDER, TERRY POWELL, JOHN R.  
REYNOLDS, RANDY SACKRIDER, THOMAS  
SALISBURY, ROBERT SEXTON, TODD  
SMADES, MATTHEW TAYLOR, and TERRY  
TIPTON,

Plaintiffs,

v.

BFI WASTE SYSTEMS OF NORTH  
AMERICA, INC., a foreign corporation, and  
ALLIED WASTE SYSTEMS, INC., d/b/a  
GREAT LAKES WASTE SERVICES, a foreign  
corporation,

Defendants.

Case No. 00-73473

Hon. George Caram Steeh

FILED  
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U.S. DIST. COURT CLERK  
EASTERN DISTRICT OF MICHIGAN  
DETROIT

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AFFIDAVIT OF CAROL WEBER

Carol Weber, having been duly sworn, deposes and states, as follows:

1. I am the Manager of Payroll Projects and Support of BFI Waste System of North America, Inc. ("BFI"). I have personal knowledge of the facts set forth herein and am competent to testify thereto.

2. I have reviewed the First Amended Complaint. I have also reviewed payroll records for each of the plaintiffs in this lawsuit. Those records indicate that BFI employed the plaintiffs during the following periods:

<u>Name</u>	<u>Social Security No.</u>	<u>Employment Period</u>
Devone L. Albert	Redacted	06/22/98 - 11/24/98
Gregory J. Anderson		08/25/99 - present
Bennie Ronal Barnes		06/16/99 - present
Clyde E. Brown		06/30/98 - present
Scott R. Cleaves		08/03/88 - present
Eddie Ellis		02/03/97 - present
Herbert Franklin		07/14/99 - present
Robert Gill		02/06/97 - present
James K. Glazier		05/26/98 - 11/04/98
Robert D. Haggard		07/02/96 - 03/29/99
Greg Hudson		06/30/99 - 12/01/00
Jean Raymond Jones		07/14/99 - present
Ahmad Kabir		11/15/97 - present
Leroy P. Metoyer, Jr.		06/30/99 - present
Harry William Moore		07/14/99 - present
Timothy Ray Moulder		04/12/99 - present
Terry Duane Powell		10/27/99 - 09/20/00
John R. Reynolds		07/05/99 - present
Randy Lee Sackrider		02/15/99 - present
Thomas Salisbury		04/17/98 - present
Robert Delan Sexton		10/27/98 - present
Todd Smades		12/28/99 - 12/01/00
Matthew Taylor		05/12/97 - present
Terry Dewayn Tipton		10/13/98 - 10/23/00

3. If employed prior to September 27, 1998, Plaintiffs were paid on an hourly basis. They received a fixed hourly rate for 40 hours. If they worked more than 40 hours in a week, they received one and a half times the fixed hourly rate for hours worked in excess of 40 hours.

4. To illustrate, assume an employee was paid \$10.00 per hour and worked 50 hours during a week. His pay for that week was calculated as follows:

Hourly	40 hrs. x \$10.00	=	\$400.00
Overtime	10 hrs. x \$15.00*	=	<u>\$150.00</u>
Total			\$550.00

\*(10 x 1 1/2)

5. If employed after September 27, 1998, Plaintiffs have been paid a day-rate. They received a fixed rate for each day worked. If they worked more than 40 hours in a week, they received an additional half rate for all hours worked in excess of 40 hours using the following formula:

$$\frac{\text{Total Pay Received}}{\text{Total Hours Worked}} = \text{Base Rate}$$

$$\text{Base Rate} \div 2 = \text{Half Rate}$$

$$\begin{array}{l} \text{Hours In Excess of 40} \\ \text{Hours x Half Rate} \end{array} = \text{Overtime Pay}$$

6. To illustrate, assume that an employee was paid \$100 per day and worked 50 hours over five days. His pay for that week was calculated as follows:

Day	5 days x \$100	=	\$500
Overtime	10 Hours x 5*	=	<u>\$ 50</u>
Total			\$550

\*( $\frac{500}{50} = 10 \div 2 = 5$ )

7. Since September 27, 1998, certain Plaintiffs have also performed specified tasks on occasion for which they received a specified sum. Such payments are known as extra pay. To the extent that a Plaintiff who received extra pay during a week worked more than 40 hours

during the week that he received the extra pay, the monies received as extra pay were included in total pay received for purposes of determining overtime pay.

8. To illustrate, assume that an employee was paid \$100 per day, worked 50 hours over five days, and received \$100 extra pay. His pay for that week was calculated as follows:

Day	5 days x \$100 =	\$500
Extra		\$100
Overtime	10 hours x 6* =	\$ 60
Total		\$660

$$*(\frac{500 + 100}{50} = 12 \div 2 = 6)$$

9. During the period that Plaintiffs were paid a day-rate, BFI's formula for payment of overtime for day-rate workers, including day-rate workers who received extra pay, has been reviewed by representatives of the United States Department of Labor ("DOL"). In each such instance, the DOL has determined that BFI is in compliance with the overtime provisions of The Fair Labor Standards Act.

10. Moreover, day-rate workers in Louisiana also challenged BFI's formula for payment of overtime in court. In that instance, the trial court and appellate court determined that BFI is in compliance with the overtime provisions of The Fair Labor Standards Act.

Further, deponent sayeth not.

Subscribed and sworn to  
before me this 13<sup>th</sup>  
day of December, 2000.

Suzanne S. Bok  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

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Carol Weber CPP  
CAROL WEBER BFI's formula for overtime

